obligations and the Commission's ability to monitor earnings on a consistent basis.

B. "Arm's Length" Requirement of Section 272(b)(5)

Section 272(b)(5) of the 1996 Act requires that transactions between a BOC and its interLATA telecommunications services, interLATA information services, and manufacturing affiliates be conducted on "an arm's length basis." The Commission solicits comments concerning whether its affiliate transactions rules, with certain changes that it proposes in the Notice, would be necessary or sufficient to ensure compliance with the "arm's length" requirement of Section 272(b)(5).[32]

MCI agrees that affiliate transactions rules are necessary to ensure compliance with Section 272(b)(5). The BOCs will have substantial incentive to subsidize their new competitive affiliates by shifting costs to their monopoly local exchange and exchange access operations. However, the "arm's length" provision of the 1996 Act requires that the BOCs record transactions with their competitive affiliates in a manner that reflects their underlying value. In order to deter cost-shifting, and to facilitate detection, the Commission should prescribe a standard methodology for the BOCs to follow in valuing their transactions with their interLATA and manufacturing affiliates. The Commission's affiliate

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[32]Notice at ¶73.

transaction rules, with appropriate modifications, would provide such a standard methodology.

C. Affiliate Transactions Notice Proposals

In 1993, the Commission released its Affiliate Transactions Notice, in which it proposed several changes to its existing affiliate transaction rules. The Commission stated that it believed that the existing mix of valuation methods many not be optimal for protecting ratepayers against cross-subsidization.[33] Accordingly, the Commission proposed a series of changes to Sections 32.27 and 64.903 of its rules. MCI supported most of the proposed rule changes in its comments on the Affiliate Transactions Notice.[34]

In the Notice, the Commission solicits comments on several of the rule changes first proposed in the Affiliate Transactions Notice and asks whether these modifications would better meet the objectives of Section 272. MCI submits that the need for stringent affiliate transaction rules has been underscored by the recent critical audits of BOC and LEC affiliate transactions conducted by state and federal authorities.[35] Because any loophole in the

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[33]Affiliate Transactions Notice, 8 FCC Rcd at 8076.

[34]Comments of MCI Telecommunications Corporation, Amendment of Parts 32 and 64 of the Commission's Rules to Account for Transactions Between Carriers and Their Nonregulated Affiliates, CC Docket No. 93-251 (December 10, 1993).

[35]See discussion of audits at pp. 6-10.

affiliate transaction rules will have more far reaching consequences with regard to the long distance and manufacturing markets than in the case of previous BOC forays into competitive markets, the Commission should adopt the modifications proposed in the Affiliate Transactions Notice and other rule changes proposed below by MCI.

1. Identical Valuation Methods for Assets and Services

MCI supports the Commission's proposal to require that affiliate transactions that do not involve tariffed assets or services be recorded at the higher of cost and estimated fair market value when the carrier is the seller, and at the lower of cost and estimated fair market value when the carrier is the buyer.[36] Under existing rules, transfers of non-tariffed services are always recorded at fully distributed cost. Fair market value is not used as a valuation method for services.

The current valuation method for services, with its reliance on fully distributed cost, has created the incentive for LECs to purchase supplies and services from an affiliate even if the services could be obtained at a lower price on the open market. In a true arm's length relationship, a LEC would purchase services from the lowest-cost supplier. Thus, because of the arm's length requirement of Section 272(b), the BOCs must be required to record services obtained from their long distance, information services, or manufacturing

[36]Notice at ¶78.

affiliates at the market value, if it is lower than their affiliate's fully distributed cost of providing the service. Similarly, the BOCs must be required to record a service provided to these affiliates at the market value, if it is higher than their fully distributed cost of providing the service.

The Commission had originally proposed such a rule in 1986, but was persuaded that the fully distributed cost rule generated incentives for the LECs to create affiliates that would provide certain service activities in a more efficient manner than that which the regulated entity would alone achieve. The LECs had suggested, for example, that cost savings could be achieved by centralizing certain functions in a separate affiliate. Subsequent events have shown that this rationale for relying on fully distributed cost alone had little validity, as many of the most significant examples of cost shifting through affiliate transactions have involved centralized procurement and services organizations.[37] In addition, as the Commission has rightly pointed out, price caps and other fundamental regulatory changes have eliminated whatever theoretical value reliance on fully distributed cost valuation for services may have had.[38]

The proposed rule would enforce the arm's length requirement of the 1996 Act by preventing a BOC from procuring services at a fully distributed cost that is above the market value or selling services to affiliates below market value.

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[37] See discussion of audits at pp. 6-10.

[38] Affiliate Transactions Notice at ¶¶31-32.

It would thereby guard against the significant risk that a BOC will attempt to subsidize its interLATA telecommunications or information services affiliates by valuing services provided to these affiliates below market value. It also guards against the risk that BOCs will subsidize their manufacturing affiliates by valuing equipment purchased from these affiliates above market value.

2. Prevailing Company Prices

Under the existing affiliate transactions rules, transfers of non-tariffed assets or services must be recorded at the invoice price if that price is determined by a prevailing price held out to the general public in the normal course of business.[39] The "arm's length" requirement of Section 272(b) requires that the use of prevailing company price as a valuation method be limited to cases where the prevailing company price is truly reflective of fair market value. As the Commission noted in the Affiliate Transactions Notice, prevailing company pricing is only a useful measure of fair market value if a substantial portion of the affiliate's business is with third parties.[40]

In the Notice, the Commission proposes to eliminate valuation based on prevailing company price for transactions between a BOC and the affiliates established pursuant to Section 272.[41] MCI supports this proposal because of

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[39]47 C.F.R. 32.27(b)

[40]Affiliate Transactions Notice, 8 FCC Rcd at 8078-8079.

[41]Notice at ¶82.

the difficulties inherent in determining whether a substantial portion of an affiliate's production is being provided to a third party. In the Affiliate Transactions Notice, the Commission proposed the adoption of a "bright line" test for identifying when a competitive affiliate's predominant purpose is to serve non-affiliates. This bright line test would have limited the use of prevailing company pricing to situations where an affiliate sells at least 75 percent of its output to non-affiliates.[42] In its comments on the Affiliate Transactions Notice, MCI supported the 75 percent threshold, but noted that such a bright line test must be applied on a product-by-product basis for it to accurately identify when a prevailing company price accurately reflects market price. If the test is applied to a larger basket of products, such as a product line, line of business, or the company as a whole, there is no assurance that the prevailing company price of any particular product in the basket accurately reflects the market price.

3. Estimates of Fair Market Value

By eliminating prevailing company price and instituting a fair market value test for services, the Commission would rely more heavily on fair market value than it does under the existing rules. In the Notice, the Commission proposes to require carriers to make good faith determinations of the fair market value, and

[42]Affiliate Transactions Notice, 8 FCC Rcd at 8080.

seeks comment on whether it should set criteria for what constitutes a good faith estimate of fair market value.[43]

MCI is concerned that allowing carriers to make good faith estimates of fair market value provides the BOCs with too much leeway in valuing their transactions. While MCI agrees that the it would be impossible to specify a step-by-step approach to valuation for every product and service, it also believes that a greater showing should be required by carriers who rely on fair market value in certain circumstances.

At a minimum, the BOCs' CAMS should specify the procedures that they use for estimating fair market value for service transactions, as was proposed in the Affiliate Transactions Notice.[44] In addition, the Commission should require the BOCs to make more specific showings for valuations of certain magnitudes and certain types of transactions. For example, the Commission might require greater scrutiny of transactions that fall into any of the following categories: (1) single item transactions that exceed $100,000; (2) multiple item transactions that exceed $250,000; (3) items transferred to the BOC where the fair market value is estimated at more than twice the initial cost; (4) items transferred from the BOC where the fair market value is estimated at less than half the initial cost; or (5) products and services whose prices deviate more than 5 percent from the price

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[43]Notice at ¶¶83-84.

[44]See Affiliate Transactions Notice, 8 FCC Rcd at 8104.

charged to nonaffiliates. Any number of other measures might also be used to flag those transactions for which the company sets a fair market value but the valuations of which, by their nature, should require increased scrutiny.

4. Tariffed-based Valuation

Under the Commission's existing affiliate transaction rules, transfers of tariffed assets and services are valued at their tariffed rates. MCI recommends that the Commission should adopt the rule proposed in the Affiliate Transactions Notice, which would specify that the BOCs record affiliate transactions at tariffed rates if they are provided pursuant to tariffs that are generally available, on file with a federal or state agency, and in effect.[45] The "generally available" requirement would reduce the incentive for the BOCs to use Individual Case Basis (ICB) tariffs to favor their own affiliates. In recent months, the BOCs have been attempting to use such tariffs to gain unauthorized pricing flexibility.[46] In September, 1995, the Common Carrier Bureau found it necessary to issue a Public Notice restating the Commission's current policy governing ICB offerings, emphasizing that ICBs are to be used only as an interim transitional measure for services with which the carrier is not experienced.[47] Pricing flexibility of the type

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[45]Affiliate Transactions Notice, 8 FCC Rcd at 8077.

[46]See In the Matter of Southwestern Bell Telephone Company Tariff F.C.C. No. 73, Transmittal Nos. 2297 and 2312, Memorandum Opinion and Order, 11 FCC Rcd 3613.

[47] Common Carrier Bureau Restates Commission Policy on Individual Case Basis Tariff Offerings, Public Notice, 11 FCC Rcd 4001.

that the BOCs have been attempting to gain through ICB tariffs would enable the BOCs to engage in discriminatory activity.

Tariff-based valuation does not, by itself, fully comply with the arm's length requirement of the Act. As MCI has explained in other proceedings, an intracorporate purchase of access at tariffed rates -- the "imputation" requirement -- is a meaningless safeguard as long as access is priced significantly over cost, as it is now.[48] The BOC and its affiliate will price their respective services to maximize total profit, whether or not that leads the affiliate to sell at a loss. The affiliate could simply absorb a loss while the BOC made up for it by overcharging for monopoly access service.

Accordingly, Section 272(e)(3) should be read to require not only an intracorporate purchase of access at rates no lower than the rates paid by other IXCs -- which can be implemented by requiring the affiliate to pay tariffed rates -- but also the enforcement of that requirement, either by reviewing the affiliate's prices or its profits on both information and telecommunications services. Unless the affiliate's rates or earnings cover its access and all other costs, requiring it to pay the BOC tariffed rates for access will be a meaningless intracorporate accounting fig leaf and will not prevent anticompetitive pricing and cross-subsidization. Without such a process of reviewing the affiliate's rates or

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[48] See, e.g., Comments of MCI Telecommunications Corporation at 25-27, Petition Requesting that Any Interstate Non-Access Service Provided by Southern New England Telecommunications Corporation Be Subject to Non-Dominant Carrier Regulation, CCB Pol 96-03 (Feb. 26, 1996).

earnings, requiring the sale of services to the affiliate at tariffed rates is an empty requirement.[49] These imputation safeguards should apply both when the BOCs provide in-region interLATA services on an separated basis and when they provide incidental interLATA services on an integrated basis.

5. Return Component for Allowable Costs

The Commission seeks comments on whether it should require the BOCs to use the prescribed interstate rate of return of 11.25 percent for valuing their transactions with Section 272 affiliates, when the valuation is based on fully distributed costs. MCI submits that the rate of return on which the BOCs' should base their rate-base calculations should be set at 10.25 percent, the lowest point of the range that the Commission allows under its price cap plan. This rate of return falls within the Commission's "zone of reasonableness."[50] That is, it represents an earnings level at which the Commission would not recognize a need to raise rates. Further, the lower the risk an entity faces, the lower the

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[49] See F. M. Fisher, An Analysis of Switched Access Pricing and the Telecommunications Act of 1996 at 9-10, Attachment 1 to Reply Comments of MCI Telecommunications Corporation, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98 (May 30, 1996).

[50] Represcribing the Authorized Rates of Return for Interstate Services of Local Exchange Carriers, CC Docket No. 89-624, 5 FCC Rcd 197, 201 (1990), citing FPC v. Natural Gas Pipeline Co., U.S. 575, 585 (1942); Permian Basin Area Rate Case, 390 U.S. 747, 767 (1968).

necessary return. As the Commission noted in the Affiliate Transactions Notice, the "affiliate relationship reduces the supplier's business risks."[51]

D. "Reduced to Writing and Available for Public Inspection"

Pursuant to Section 272(b)(5), all transactions between a BOC and its interLATA or manufacturing affiliates must be "reduced to writing and available for public inspection." The Notice seeks comments on whether and, if so, how the Commission should amend its rules to address this requirement.[52]

1. The BOCs Must Make Transaction Information Readily Accessible to the Public

The "reduced to writing" and "available for public inspection" requirements support the nondiscrimination provisions of Section 272(c) and (e). As the Commission noted in the Computer II Final Decision, separate subsidiaries do not, by themselves, reduce the incentive for anticompetitive activity.[53] Instead, the primary purpose of a separate subsidiary is to facilitate detection: "Although the subsidiary requirement does not alter incentives, it reduces the ability to engage in predation or to do so without detection."[54] The public inspection requirement contained in the 1996 Act indicates that Congress contemplated

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[51]Affiliate Transactions Notice, 8 FCC Rcd at 8078.

[52]Notice at ¶74.

[53]In the Matter of Amendment of Section 64.702 of the Commission's Rules and Regulations, Final Decision, 77 FCC 2d. 384, 462 (Computer II Final Decision).

[54]Id.

vigorous involvement by interested third parties in deterring BOC cost-shifting and discriminatory activity.

As part of the requirement that they make affiliate transaction information available for public inspection, the BOCs should be required to provide a complete listing of transaction activity with their interLATA and manufacturing affiliates on a periodic basis, no less frequently than quarterly. This listing would specify all contracts, arrangements, and other agreements between the BOC and its interLATA and manufacturing affiliates, providing a description of the asset or service transferred, the transfer price, and the method of valuation. The transaction list should be provided to the Commission and should also be made available to the public through other means, such as the Internet, as proposed in the Notice.[55] Interested parties could then request copies of any particular contract, agreement, or other arrangement from the BOC. The requirement that transaction information be made available for public inspection would have little value if summary information in a clear and consistent format were not readily available to the public. The summary of transaction information should also function as a statement of facilities, services, or information that other providers of interLATA services may obtain from the BOCs on the same terms and conditions, pursuant to Section 272(e)(2).

[55]Notice at ¶74.

The summary information provided by the BOCs should include information concerning transactions valued at their tariff rates. Under the BOCs' more flexible price cap regime, tariffed rates can change frequently, creating the risk that a BOC can "game" its tariff changes to benefit its affiliate. To facilitate monitoring of transactions valued at tariffed rates, the BOC should be required to report the date of the transaction. This would allow detection of any anti-competitive relationship between tariff changes and affiliate transactions.

2. Requests for Access Services Are Transactions

Pursuant to Section 272(e)(1), a BOC must fulfill any requests from an unaffiliated entity for telephone exchange service and exchange access service within a period no longer than the period in which it provides such telephone exchange service to itself or to its affiliates. MCI agrees with the Commission's interpretation of "transactions" as including requests for telephone exchange service and exchange access service.[56] Under the 1996 Act, information concerning requests for exchange access and local exchange service must therefore be "reduced to writing and available for public inspection."

To enable the detection of discrimination in fulfilling requests for telephone exchange service and exchange access service, the Commission should impose regular reporting requirements on the BOCs, following the format of Computer III

[56]Notice at ¶75.

and ONA installation and maintenance service interval reporting requirements.[57] The reports should be structured to permit comparison of the installation and service intervals provided to BOC affiliates with those provided to other carriers. As MCI noted in its earlier comments, these reports should cover initial installation requests as well as any subsequent requests for improvement, upgrades or modifications of service or repair and maintenance of these services. Requests for service and provision of service must be deemed to include any changes in service as well as repair and maintenance, since all of these aspects of service are absolutely necessary for proper service. Such reporting should also cover the provision of facilities, to ensure that affiliates are not favored with ICB and other one-time offerings that are not equally available to all competitors.

3. Confidentiality

The Notice asks whether the Commission needs to adopt safeguards to protect any sensitive or confidential information contained in publicly available documents. The Commission must not permit BOC claims of confidentiality to undercut Congress's intent that the public play a significant role in monitoring transactions between the BOCs and their interLATA or manufacturing affiliates. The language of Section 272(b)(5) plainly requires that transactions be reduced to writing and "available for public inspection." In order to ensure BOC

[57]See BOC ONA Reconsideration Order, 5 FCC Rcd at 3093.

compliance with the nondiscrimination requirements of the 1996 Act, third parties must be able to compare the terms and conditions under which their transactions with the BOC are conducted with the terms and conditions of transactions between the BOC and its affiliates.

E. Application to InterLATA Telecommunications Affiliates

Any transactions between a BOC and its interLATA information services or manufacturing affiliates would automatically be subject to the Commission's affiliate transactions rules, because neither interLATA information services nor manufacturing are regulated activities under Title II. The Commission seeks comment on whether and how it should adapt its affiliate transactions rules if applied to transactions between the BOC and its regulated in-region interLATA affiliate.[58]

The regulated status of interLATA services does not diminish the potential for cost misallocation between the BOCs' competitive and noncompetitive services. As a result, the Commission should apply its affiliate transactions rules to transactions between the BOC and its in-region interLATA affiliate. However, the affiliate transactions rules by themselves are not sufficient to deter cost shifting because the affiliate transactions rules would only address cost shifting between the BOC's local exchange operations and its interLATA operations. If

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[58]Notice at ¶44.

the Commission were to simply treat the interLATA affiliate as nonregulated, as it did in the BOC Out-of-Region Order, it would leave possible cost shifting between the interexchange operations and the BOC's nonregulated affiliates entirely unguarded.

The Commission must have a clear idea of the separate in-region interexchange affiliate's dealings with all of the BOC's other affiliates. The Commission therefore is going to have to establish an affiliate transaction monitoring regime that allows it to oversee the precise extent and nature of the BOC interexchange affiliate's relationships to all of its affiliates, regulated and nonregulated. In the absence of such a scheme, the Commission will not be able to prevent cross-subsidies between the BOC's local exchange operations and its interexchange operations as well as between its interexchange operations and its nonregulated operations and affiliates. Both of these possible sources of cross-subsidies pose a threat to BOC monopoly ratepayers and to interexchange competition.

Effective Commission oversight requires that each BOC interLATA affiliate submit a CAM showing a complete Part 64 affiliate transaction description, setting out all of the various categories of transactions between such affiliate and all of the BOC's other affiliates, including its nonregulated affiliates. Many of the those affiliate relationships would probably parallel the relationship between the BOC's local exchange operations and its nonregulated affiliates, but that cannot always be assumed and should be spelled out in the CAM so that the costs of

the BOC's interexchange services can be properly identified and to prevent the types of cross-subsidization reflected in the BOC audits.

The Commission should also require the BOCs to reallocate, upon entry into the in-region interLATA services market, any embedded costs in their Part 32 accounts that may be attributed to the provision of interLATA services. In particular, the Commission should require the BOCs to identify and separate all costs related to their official services networks. These costs are substantial and should not continue to be borne by captive subscribers of BOC regulated services.

F. Application to Joint Marketing

Section 272(g)(2) of the 1996 Act allows a BOC to market or sell interLATA service provided by an affiliate. MCI, in its comments on the BOC In-region NPRM, demonstrated that nothing in Section 272(g) overrides or affects the separation requirements in Section 272(b). Accordingly, it must be concluded that any joint marketing must be conducted either by the BOC or its affiliate, under a written contract available for public inspection, not by using shared employees or facilities. In order to ensure that this BOC marketing service contract is not used to undermine the separation between the BOC and its affiliate, the contract must specify all of the charges with sufficient back-up to demonstrate that the BOC is not subsidizing its affiliate.

If the BOC provides marketing services on behalf of its interexchange affiliate, Section 272(b)(5) requires that the BOC value these marketing services as if they were provided at "arm's length." The Commission has long recognized the difficulties inherent in determining the extent to which costs incurred by joint marketing should be recorded on regulated books. In the Joint Cost Order, the Commission noted that it is likely that marketing expenses will benefit nonregulated activities to a disproportionately high degree.[59] As a result, it is essential that the provision of marketing services be subject to the Commission's proposed rule for valuing services, which would require that the BOC record the value of the marketing services provided to interLATA affiliates at fair market value, if fair market value is greater than fully distributed cost. The BOCs' CAMs must specify in detail how they propose to estimate the fair market value of the marketing services that they provide to their interLATA affiliates.

G. Audit Requirements

Section 272(d) states that companies required to maintain a separate affiliate under Section 272 shall obtain and pay for a Federal/State audit every 2 years to determine whether they have complied with the requirements of Section 272(b). The Commission tentatively concludes that the auditor's report should follow the format specified in the Commission's existing affiliate transaction rules.

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[59] Joint Cost Order, 2 FCC Rcd at 1323.

Generally, MCI endorses the approach taken by the Commission. However, the Commission should clarify that the audit specified in Section 272(d) supplements the regular annual audit required by the Commission's existing affiliate transactions rules.[60] Under the Commission's rules, an annual audit is to determine whether the BOC has complied with Section 32.27's affiliate transaction rules. These rules apply to transactions between the BOC and all affiliates treated as nonregulated for accounting purposes, including their in-region interLATA telecommunications, interLATA information services, and manufacturing affiliates. Given the fundamental role that affiliate transaction rules play in deterring BOC cost-shifting and anticompetitive activity, it would be unwise to wait two years to conduct the first audit of BOC compliance with affiliate transaction rules. If the Commission determines that the biennial audit requirement in the Act replaces its existing annual audit requirement, it could nonetheless conduct an audit after one year pursuant to its audit authority under the Communications Act.[61] Alternatively, the first of the biennial audits could be conducted one year after a BOC receives in-region interLATA authority.

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[60]47 C.F.R. 64.904(a-b).

[61]47 U.S.C. §220(c).

VI. Other Matters

A. Exogenous Costs and Part 64

The Commission's price cap rules for ILECs specify that "[s]ubject to further order of the Commission, those exogenous cost changes shall include cost changes caused by...[t]he reallocation of investment from regulated to nonregulated activities pursuant to [Section 64.901 of the Commission's rules]."[62] The Commission asks whether cost reallocations due to changes in the Part 64 cost allocation process would therefore result in exogenous treatment only to the extent amounts are reallocated "from regulated to nonregulated activities."[63] The Commission then asks whether such reallocations to nonregulated activities that may result from the provision of telemessaging service should trigger an adjustment to lower price cap indices.[64]

Because telemessaging is an information service and must, therefore, be provided by a separate subsidiary, the BOCs must remove all costs associated with the provision of telemessaging service, including joint and common costs, from their Part 32 accounts. The removal of these costs from the BOCs' Part 32 accounts clearly constitutes the reallocation of investment from regulated to nonregulated activities. As a result, the transfer of the BOCs' telemessaging

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[62]47.C.F.R. §61.45(d).

[63]Notice at ¶123.

[64]Id.

activities to their new information services affiliate should trigger an adjustment to lower price cap indices.

B. Part 64 and Sharing

The Notice asks whether the elimination of sharing obligations permanently would eliminate the need for Part 64 processes in the regulation of these carriers. It is apparent that cost allocation rules and standards for valuing affiliate transactions are still required even if the sharing obligation is permanently eliminated. If the Commission intends to monitor ILEC performance (for regulated services) to evaluate whether its permanent price cap system is in the public interest, or to determine whether adjustments must be made to further the public interest (e.g., periodic adjustment of the productivity factor), then the Part 64 cost allocation rules, and all related safeguards, are essential.

VII. Scope of the Commission's Authority

MCI agrees with the Commission's tentative conclusion that Sections 260 and 271 through 276 give the Commission jurisdiction over the intrastate services addressed therein.[65] As the Commission recently concluded, the 1996

[65]Notice at ¶¶34, 43, 94, 99, 113.

Act alters the dual regulatory system embodied in the 1934 Act "and expands the applicability of . . . national rules to historically intrastate issues."[66]

In the Local Competition Order, the Commission concluded that because Sections 251 and 252 cover intrastate services, they authorize the Commission to establish regulations regarding those services. Similarly, Sections 271 and 272, and therefore the Commission's authority pursuant to those provisions, address both the interstate and intrastate aspects of interLATA services.

In Sections 271 and 272, Congress expressly addressed BOC provision of "interLATA" services, making no distinction between the interstate and intrastate aspects of those services. Nor would it have made any sense in terms of policy, economics, or technology to do so. Reading Sections 271 and 272 as applying only to interstate services would permit the BOCs to provide in-region intrastate interLATA services without any federal entry regulation or safeguards. The BOC control of bottleneck facilities, however, are equally important for both interstate and intrastate services. There is no reason to believe that Congress, in creating safeguards relating to "interLATA" services, intended those safeguards to apply to one type of interLATA services and not the other.

As the Commission noted in the Local Competition Order, Section 2(b) of the Communications Act does not require a different result. Sections 271 and 272 squarely address all interLATA services -- both interstate and intrastate, and

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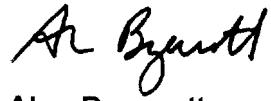
[66]Local Competition Order at ¶83.

therefore must override the more general Section 2(b). Settled principles of statutory construction establish that the specific controls the general, and the later controls the earlier.[67]

VIII. Conclusion

MCI requests that the Commission promulgate accounting safeguards that apply when an ILEC, including a BOC, provides service addressed in Sections 260 and 271 through 276 of the 1996 Act that are consistent with the above comments.

Respectfully submitted,
MCI TELECOMMUNICATIONS CORPORATION



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August 26, 1996

[67]Smith v. Robinson, 468 U.S. 992, 1024 (1984); Patterson v. McLean Credit Union, 491 U.S. 164, 181 (1989)

STATEMENT OF VERIFICATION

I have read the foregoing and, to the best of my knowledge, information, and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on August 26, 1996.

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CERTIFICATE OF SERVICE

I, Stan Miller, do hereby certify that copies of the foregoing "MCI Comments" were sent via first class mail, postage paid, to the following on this 26th day of August 1996.

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